

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Amendment of Parts 2 and 90 of the)	
Commission's Rules to Provide for the)	PR Docket No. 89-553
Use of 200 Channels Outside the Designated)	
Filing Areas in the 896-901 MHz and the)	
935-940 MHz Bands Allotted to the)	
Specialized Mobile Radio Pool)	DOCKET FILE COPY ORIGINAL
Implementation of Section 309(j) of the)	
Communications Act - Competitive Bidding)	PP Docket No. 93-253
Implementation of Sections 3(n) and 332)	GN Docket No. <u>93-252</u> /
of the Communications Act)	

To: The Commission

**PETITION FOR CLARIFICATION OF THE
SOUTHERN CALIFORNIA EDISON COMPANY**

Southern California Edison Company ("SCE"), by its attorneys and pursuant to Section 1.106 of the rules and regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby submits this Petition for Clarification in response to the Commission's Second Report and Order ("Second R&O") released in the above-captioned proceeding on April 17, 1995.^{1/}

^{1/} Second Report and Order, 60 Fed. Reg. 21,987 (May 4, 1995).

PRELIMINARY STATEMENT

1. SCE is the second largest electric utility in the nation. Its service area stretches from Los Angeles, California east to the Arizona border, and north to the Mono Lake region. Within this 50,000 square-mile expanse, SCE serves over four million residences, schools, hospitals, businesses, and government facilities. In total, SCE provides electricity to approximately nine million people, or almost one in every 29 persons in the United States.

2. To ensure its essential service is provided safely and efficiently to all of its customers, SCE maintains a large, complex, internal telecommunications network. SCE extensively employs private wire and fiber lines, the public switched telephone network, microwave facilities, and, of course, land mobile radio. While each of the telecommunications elements is critical, SCE's land mobile network is perhaps most important in enabling SCE to meet its enormous public safety and public service obligations. Land mobile communications are indispensable to customer service and to the maintenance, repair and emergency preparedness activities associated with SCE's distribution system, its generating plants and its major transmission lines.

3. In its capacity as a land mobile radio licensee, SCE is authorized for three 10-channel blocks of 900 MHz Specialized Mobile Radio ("SMR") channels

pursuant to waivers granted by the FCC in 1991 and 1994. Because of the dearth of any spectrum upon which to construct a state-of-the-art land mobile system in the Los Angeles Basin, SCE was compelled to purchase the three constructed 900 MHz SMR systems which the Commission since has permitted by waiver to be converted from the SMR category to the Industrial/Land Transportation category. SCE also has received extended implementation authority to effectuate the build-out of its 900 MHz system. The Commission has specifically stated that the SCE system will be protected in the same manner as SMR systems, so that for purposes of the instant proceeding, SCE's 30-channel system is considered to be a 900 MHz SMR "incumbent" system.

4. SCE provides coverage across the utility's entire 50,000 square-mile service territory by means of the 900 MHz network. In order to serve approximately 5,600 mobile units, SCE has designed a wide-area system where its channels are used and re-used at some 58 locations throughout the service area. Many of those locations are outside of the Los Angeles Designated Filing Area ("DFA"), and therefore this proceeding has been of vital importance to SCE.

5. Consequently, SCE has participated actively at every stage of this longstanding Commission proceeding. SCE filed Comments and Reply Comments in this docket on April 23, 1993 and May 10, 1993, respectively, addressing the

Commission's First Report and Order and Further Notice of Proposed Rule Making.

In those pleadings, SCE emphasized that its channels continue to be protected under SMR category regulations and that, consequently, SCE is vitally interested in the expansion of licensing of 900 MHz channels beyond the DFAs. Indeed, SCE supported the proposal to permit existing licensees of 900 MHz systems to expand into larger regions, which would be defined on the basis of the Rand McNally Major Trading Areas ("MTAs"). Most recently, SCE filed Comments, on May 24, 1995, addressing proposals contained in this proceeding's Second Further Notice of Proposed Rule Making concerning 900 MHz MTA auction methodology.

6. SCE has invested substantial time and capital in developing its 900 MHz system -- once completed, the system will be one of the largest, most sophisticated, private land mobile radio networks in the country. Given SCE's investment, its continued regulation under the SMR rules, and in light of its status as a 900 MHz SMR incumbent, the company has a serious interest in this proceeding. Accordingly, SCE is compelled to request that the Commission clarify certain aspects of the rules promulgated in the Second R&O, particularly those concerning incumbent licensee protections and MTA licensee requirements.

PETITION FOR CLARIFICATION

7. SCE notes with approval that the rules promulgated in the Second R&O portion of this proceeding provide incumbent licensees, such as SCE, with considerable protection from potential co-channel users who may acquire an MTA license through the auction process. These protections include: (1) operation of the co-channel separation criteria set forth in Section 90.621(b) of the rules; (2) affording primary site protection to secondary sites granted after August 9, 1994, provided that the underlying application for the licensed facilities was filed on or before that date; and (3) requiring MTA licensees to satisfy coverage requirements regardless of the percentage of the MTA population served by incumbent licensees.

8. SCE believes, however, that certain rules promulgated in the Second R&O must be clarified in order to better define the protections afforded incumbent licensees and to define more clearly the responsibilities imposed on MTA license holders. SCE is concerned that in the absence of clarifying language, MTA applicants and licensees may underestimate the scope of the construction and coverage requirements imposed by the Second R&O, as well as fail to recognize the extent to which the co-channel separation criteria protect incumbent licensees.

9. SCE fears that these unenlightened "winning" MTA bidders, frustrated at their inability to build facilities and maintain their licenses, may commence lobbying the Commission to reduce the MTA population coverage requirements or weaken the protections for incumbent licensees. In light of the potentially large sums of money that may be paid at auction, SCE is concerned that the Commission may then feel obliged to give such pleadings for relief far more attention than they would otherwise deserve.

10. The Second R&O requires an MTA licensee to satisfy its coverage requirements regardless of the extent to which incumbent licensees are present within the MTA block.^{2/} SCE believes that the rules must be clarified to indicate precisely how population coverage will be counted. As matters now stand in the Second R&O, MTAs consist of Basic Trading Areas ("BTAs"), which in turn consist of counties. Since county population is essential to calculating MTA population and assessing whether the coverage requirements have been achieved by the MTA licensee, the Commission must clarify that providing coverage to one corner of a county does not entitle the MTA licensee to claim credit for serving the population of the entire county. Accordingly, the Commission must choose some geographically determined benchmark, such as the U.S. Census Bureau's census tracts, to allow for more precise

^{2/} Second R&O at para. 42.

computation of population coverage. SCE cautions the Commission that in the absence of a precise population computation methodology, some MTA auction winners may make expansive and unfounded claims of population coverage in order to preserve their authorizations.

11. SCE notes that this computational problem is particularly germane to those MTAs that contain the nine markets where Designated Filing Area ("DFA") spectrum blocks are all licensed to incumbents: New York, Los Angeles, San Diego, San Francisco, Houston, Dallas/Fort Worth, Miami, Boston and Washington, D.C./Baltimore.^{3/} SCE respectfully submits that the failure to clarify the population computation methodology now will inevitably result in protracted disputes later on between MTA auction winners and the Commission.

12. Similarly, the Commission must clarify, in the text of Rule 90.7 defining the "MTA-based license or MTA license", exactly which edition and population table of Rand McNally's Commercial Atlas and Marketing Guide will be employed to determine whether an MTA licensee has met the population coverage requirements. Since the last U.S. Census was five years ago, having a precise benchmark to judge population coverage is critical.

^{3/} Second R&O, para. 29, note 17.

13. The newly promulgated rule governing the authorization, construction and implementation of MTA licenses (Rule 90.665) also should be clarified to specifically state that MTA licensees must meet coverage requirements regardless of the percentage of the MTA population already served by incumbent licensees. Such an action will ensure that MTA licensees are fully apprised of their construction obligations and potential hurdles to be overcome. For example, SCE suggests that paragraph (c) of Rule 90.665 read as follows:

(c) MTA licensees in the 896-901/935-940 MHz band must, within three years, construct and place into operation a sufficient number of base stations to provide coverage to at least one-third of the population of the MTA. Further, each MTA licensee must provide coverage to at least two-thirds of the population of the MTA within five years or, alternatively, submit a showing to the Commission demonstrating that they are providing substantial service. These population coverage benchmarks must be satisfied regardless of the extent to which incumbent licensees are present within the MTA block.

14. SCE is pleased to note that newly promulgated Rule 90.663, governing MTA-based SMR system operations, specifically states that the MTA licensee must afford protection to incumbent licensees in accordance with the provisions of Rule 90.621(b), the Commission's longstanding 800/900 MHz co-channel separation standards. SCE respectfully urges, however, that two aspects of Rule 90.663 be clarified. SCE believes these clarifications will serve to enhance the MTA licensee's understanding of the Commission's intent in this proceeding.

15. First, SCE seeks to ensure that specific attention is drawn to the fact that three "special case" co-channel separation standards involving geographic areas are included within Rule 90.621(b). These special cases, which impact three Major Trading Areas, are: (1) the Southern California High Site 105-mile separation standard (Rule 90.621(b)(1)) for the Los Angeles MTA; (2) the Northern California High Site "knock-out Table" (Rule 90.621(b)(2)) for the San Francisco MTA; and (3) the Seattle Area high elevation sites 105-mile protection Table (Rule 90.621(b)(3)) for the Seattle MTA.

16. Second, SCE urges that the text of Rule 90.663 be revised to provide a more descriptive and comprehensive definition of "incumbent licensees." As presently constituted, Rule 90.663(a)(1) defines incumbent licensees as "all sites for which applications were filed on or prior to August 9, 1994." SCE believes that Rule 90.667 "Grandfathering provisions for incumbent licensees" provides a more precise definition of incumbent licensees. Transposition of this more precise definition to Rule 90.663(a)(1) would cause the rule to read as follows:

(a) MTA-based licensees authorized in the 896-901/935-940 MHz band pursuant to Section 90.661 may construct and operate base stations using any frequency identified in their spectrum block anywhere within their authorized MTA, provided that:

(1) The MTA licensee affords protection, in accordance with Section 90.621(b), to all sites ~~authorized to 900 MHz SMR~~

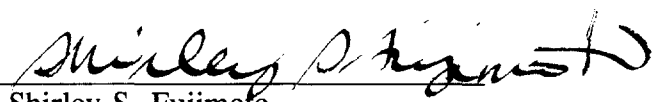
licensees who obtained licenses or filed applications on or before August 9, 1994 ("incumbent licensees").

CONCLUSION

17. SCE, as the nation's second largest electric utility, has an enormous responsibility to the population of Southern California. It requires efficient communications with a fleet of nearly 5,600 vehicles over a territory of 50,000 square miles. As an incumbent licensee on three blocks of 900 MHz SMR channels in the Los Angeles MTA, SCE respectfully urges that the Commission revise and clarify the rules promulgated in the Second R&O as specified herein.

Respectfully submitted,

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